

**INFORMATION PAPER****FEDERAL TORT CLAIMS ACT & MILITARY CLAIMS ACT**

1. **PURPOSE:** To inform commanders and heads of Army and DoD organizations or activities of the requirements of the Federal Tort Claims Act (FTCA) and Military Claims Act (MCA) and the need to timely identify incidents resulting in death, personal injury, and property damage resulting from activities of the DoD.

2. **FACTS:**

a. Under the FTCA and MCA, the United States is generally liable in the same manner and to the same extent as a private individual under like circumstances for negligent acts or omissions of members of the Armed Forces of the United States or employees that occur within the scope of military duties or government employment.

b. A claim for the personal injury or death of, or the loss of or damage to property belonging to, a member of the Armed Services that occurs "incident to service" is not payable under the FTCA. However, the MCA permits recovery by service members for property damage claims but not for injuries incurred "incident to service."

c. The FTCA allows payment of subrogation claims of insurers when allowed by state law, while the MCA bars subrogation claims. Service members who experience property damage resulting from a DoD activity should be referred to a military claims office before they settle with their insurer.

d. Both Acts require claimants to initially file an administrative claim with the agency. Claims are filed with a Standard Form (SF) 95 and should be filed with the service claims office of the alleged tortfeasor. Under the FTCA, a claimant may file a law suit six months after the date of filing an administrative claim.

e. Early investigation of incidents involving personal injury or death or property damage or loss is critical to determine liability of the Army and to avoid unnecessary litigation.

3. **CURRENT STATUS:** The Fort Belvoir Claims Office receives FTCA and MCA claims generated by Army activities and DoD activities on Fort Belvoir and is prepared to advise members of your organization concerning the investigation requirements for incidents resulting in potential liability on the part of the Army.

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